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20 STARWEST BOTANICALS, INC.

21 SUPERIOR COURT OF CALIFORNIA
22 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

23 ENVIRONMENTAL RESEARCH
24 CENTER, a California non-profit
25 corporation,

26 Plaintiffs,

27 vs.

28 STARWEST BOTANICALS, INC., and
DOES 1-50, Inclusive,

Defendants.

) **Case No.: 30-2012-00606439-CU-MC-CJC**

) Judge: Honorable Andrew P. Banks

) **[PROPOSED] STIPULATED CONSENT
JUDGMENT; [PROPOSED] ORDER**

) **[Health & Safety Code § 25249.5, et seq.]**

) Action Filed: October 19, 2012

29 **1. INTRODUCTION**

30 **1.1** This Action arises out of the alleged violations of California's Safe Drinking

1 Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5
2 *et seq.* (also known as and herein after referred to as “Proposition 65”) regarding the following
3 products (hereinafter collectively the “Covered Products” or “Covered Product” to refer to a
4 single product):

- 5 1) Starwest Botanicals Inc. Detox
- 6 2) Starwest Botanicals Inc. Blood Cleanser
- 7 3) Starwest Botanicals Inc. GreenPower Alkalizing Superfood
- 8 4) Starwest Botanicals Inc. Burdock Root
- 9 5) Starwest Botanicals Inc. Relaxation
- 10 6) Starwest Botanicals Inc. Marshmallow Root
- 11 7) Starwest Botanicals Inc. Liver Cleanse
- 12 8) Starwest Botanicals Inc. Licorice Root
- 13 9) Starwest Botanicals Inc. Turmeric
- 14 10) Starwest Botanicals Inc. Fo-Ti Root
- 15 11) Starwest Botanicals Inc. Wheat Grass
- 16 12) Starwest Botanicals Inc. Valerian Root
- 17 13) Starwest Botanicals Inc. Gotu Kola Herb
- 18 14) Starwest Botanicals Inc. White Willow Bark
- 19 15) Starwest Botanicals Inc. Regularity
- 20 16) Starwest Botanicals Inc. Kidney Support

21 **1.2** Any other products are not subject to the injunctive provisions herein, and are not
22 covered by the release of liability herein.

23 **1.3** Plaintiff Environmental Research Center, Inc. (“ERC”) is a California non-profit
24 corporation acting as a private enforcer of Proposition 65 that is dedicated to, among other
25 causes, helping safeguard the public from health hazards by reducing the use and misuse of
26 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
27 and encouraging corporate responsibility. ERC brings this Action in the public interest pursuant
28 to California Health and Safety Code Section 25249.7.

1 **1.4** Defendant STARWEST BOTANICALS, INC. is a California Corporation and at
2 all relevant times for purposes of this Consent Judgment, employed ten or more persons, and is a
3 “person in the course of doing business” within the meaning of Proposition 65. STARWEST
4 BOTANICALS, INC. manufactures, distributes and/or sells the Covered Products.

5 **1.5** ERC and STARWEST BOTANICALS, INC. are hereinafter sometimes referred
6 to individually as a “Party” or collectively as the “Parties.”

7 **1.6** On January 6, 2012, pursuant to California Health and Safety Code Section
8 25249.7(d)(1), ERC served a Notice of Violations of Proposition 65 (“Notice of Violations”) on
9 the California Attorney General, other public enforcers, and STARWEST BOTANICALS, INC.
10 A true and correct copy of the Notice of Violations is attached hereto as Exhibit A.

11 **1.7** After more than sixty (60) days passed since service of the Notice of Violations,
12 and no designated governmental agency filed a complaint against STARWEST BOTANICALS,
13 INC. with regard to the Covered Products or the alleged violations, ERC filed the Complaint in
14 this Action (the “Complaint”) for injunctive relief and civil penalties. The Complaint is based on
15 the allegations in the Notice of Violations.

16 **1.8** The Complaint and the Notice of Violations each allege that STARWEST
17 BOTANICALS, INC. manufactured, distributed, and/or sold in California the Covered Products,
18 which contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive
19 toxin, and expose consumers at a level requiring a Proposition 65 warning. They further allege
20 that use of the Covered Products exposes persons in California to lead without first providing
21 clear and reasonable warnings, in violation of California Health and Safety Code Section
22 25249.6. STARWEST BOTANICALS, INC. denies all material allegations of the Notice of
23 Violation and the Complaint, asserts numerous affirmative defenses, and specifically denies that
24 the Covered Products require a Proposition 65 warning or otherwise cause harm to any person.

25 **1.9** The Parties enter into this Consent Judgment in order to settle, compromise and
26 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent
27 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any
28 of the Parties, or by any of their respective officers, directors, shareholders, employees, agents,

1 parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,
2 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,
3 wrongdoing, or liability, including without limitation, any admission concerning any alleged
4 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent
5 Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties
6 may have in any other or future legal proceeding unrelated to these proceedings. However,
7 nothing in this Section shall affect the enforceability of this Consent Judgment.

8 **1.10** The “Effective Date” of this Consent Judgment shall be the date this Consent
9 Judgment is entered by the Court.

10 **2. JURISDICTION AND VENUE**

11 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
12 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that
13 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment
14 pursuant to the terms set forth herein.

15 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING, AND WARNINGS**

16 **3.1** Beginning on the Effective Date, STARWEST BOTANICALS, INC. shall be
17 permanently enjoined from manufacturing for sale in California, directly selling to a consumer in
18 California or “Distributing into California” any of the Covered Products for which the maximum
19 daily dose recommended on the label contains more than 0.5 micrograms of lead, unless such
20 Covered Product complies with the warning requirements in Section 3.3 or qualifies a
21 “Reformulated Covered Product” pursuant to Section 3.4. “Distributing into California” and
22 “Distribute into California” mean to directly ship any of the Covered Products into California for
23 sale or to sell any of the Covered Products to a distributor that STARWEST BOTANICALS,
24 INC. knows will sell the Covered Product in California.

25 **3.2 Calculation of Lead Levels**

26 As used in this Consent Judgment, lead levels are calculated pursuant to the testing
27 protocol described in Section 3.5. For purposes of this Consent Judgment, lead content shall be
28 calculated by averaging the lead concentration in the two (2) samples from each lot of each

1 Covered Product.

2 **3.3 Clear and Reasonable Warnings.**

3 For those Covered Products that are subject to the warning requirement of Section 3.1,
4 STARWEST BOTANICALS, INC. shall provide one of the following warnings:

5 **[California Residents Proposition 65] WARNING [(California Proposition**
6 **65):** This product contains [lead,] [a] chemical[s] known to the State of
California to cause [cancer and] birth defects or other reproductive harm.

7 **[California Residents Proposition 65] WARNING [(California Proposition**
8 **65):** This product contains [lead,] [a] substance[s] known to the State of
California to cause [cancer and] birth defects or other reproductive harm.

9
10 The text in brackets in the warning above is optional, except that the term “cancer” must
11 be included only if the maximum daily dose recommended on the label contains more than 15
12 micrograms of lead.

13 The warning shall be prominently affixed to or printed upon the label of the Covered
14 Product so as to be clearly conspicuous, as compared with other statements or designs on the
15 label as to render it likely to be read and understood by an ordinary purchaser or user of the
16 Covered Product. If the warning is displayed on the Covered Product’s label, it shall be at least
17 the same size as the largest of any other health or safety warnings on the Covered Product and
18 the word “**WARNING**” shall be in all capital letters and in bold print.

19 For any Covered Product sold via a website, the warning shall appear prior to the
20 California customer completing the checkout process on the website for any of the Covered
21 Products being shipped to California.

22 STARWEST BOTANICALS, INC. shall not provide any additional information,
23 statements, or comments regarding Proposition 65 in addition to the Warning.

24 **3.4 Reformulated Covered Products.**

25 A Reformulated Covered Product is one for which the maximum recommended daily
26 serving on the label contains no more than 0.5 micrograms of lead per day.

27 **3.5 Testing and Quality Control Methodology**

1 (a) Beginning within one year of the Effective Date, STARWEST BOTANICALS,
2 INC. shall test two (2) randomly selected samples of each lot of the Covered Products (in the
3 form intended for sale to the end-user) for lead content. The testing requirement does not apply
4 to any of the Covered Products for which STARWEST BOTANICALS, INC. has provided the
5 warning specified in Section 3.3.

6 (b) Testing for lead shall be performed using Inductively Coupled Plasma-Mass
7 Spectrometry (“ICP-MS”) or any other testing method subsequently agreed to in writing by the
8 Parties.

9 (c) All testing pursuant to this Consent Judgment shall be performed by an
10 independent third party laboratory certified by the California Environmental Laboratory
11 Accreditation Program or a laboratory that is registered with the United States Food & Drug
12 Administration.

13 (d) STARWEST BOTANICALS, INC. shall retain all test results and documentation
14 for a period of four (4) years from the date of the test.

15 (e) STARWEST BOTANICALS, INC. shall test each lot of the Covered Products
16 once a year for a minimum of four (4) consecutive years by testing two randomly selected
17 samples from each lot of the Covered Product which STARWEST BOTANICALS, INC. intends
18 to sell in California or is manufacturing for sale in California, directly selling to a consumer in
19 California, or “Distributing into California.” If tests conducted pursuant to this Section
20 demonstrate that no warning is required for a Covered Product during each of four (4)
21 consecutive years, then the testing requirements of this Section will no longer be required as to
22 that Covered Product.

23 (f) For purposes of this Consent Judgment, daily lead exposure levels shall be
24 measured in micrograms, and shall be calculated using the following formula: Micrograms of
25 lead per gram of Covered Product, multiplied by grams per serving of the Covered Product
26 (using the largest serving size appearing on the Covered Product’s label), multiplied by servings
27 of the Covered Product per day (using the largest number of servings in the recommended
28 dosage appearing on the Covered Product’s label), which equals micrograms of lead exposure

1 per day.

2 **4. SETTLEMENT PAYMENT**

3 **4.1** STARWEST BOTANICALS, INC. shall make a total payment of \$60,000.00
4 within 10 business days of the Effective Date, which shall be in full and final satisfaction of all
5 potential civil penalties, payment in lieu of civil penalties, and attorney’s fees and costs. The
6 payment will be sent to counsel for ERC, William F. Wraith, Wraith Law, 16485 Laguna
7 Canyon Road, Suite 250, Irvine, California, 92618. The payment shall be made by separate
8 checks and apportioned as follows:

9 **4.2** \$5,780.00 as civil penalties pursuant to California Health and Safety Code Section
10 25249.7(b)(1). Of this amount, \$4,335.00 shall be payable to the Office of Environmental Health
11 Hazard Assessment (“OEHHA”), and \$1,445.00 shall be payable to ERC. (Cal. Health & Safety
12 Code § 25249.12(c)(1) & (d)). ERC’s counsel will forward the civil penalty to OEHHA.

13 **4.3** \$15,000.00 payable to ERC as reimbursement to ERC for reasonable costs
14 associated with the enforcement of Proposition 65 and other costs incurred as a result of work in
15 bringing this Action.

16 **4.4** \$17,348.60 payable to ERC in lieu of further civil penalties, for the day-to-day
17 business activities such as (1) continued enforcement of Proposition 65, which includes work,
18 analyzing, researching and testing consumer products that may contain Proposition 65 chemicals,
19 focusing on the same or similar type of ingestible products that are the subject matter of the
20 Action; (2) the continued monitoring of past consent judgments and settlements to ensure
21 companies are complying with Proposition 65; and (3) giving a donation of \$870.00 to As You
22 Sow to address reducing toxic chemical exposures in California.

23 **4.5** \$21,308.90 payable to William F. Wraith as reimbursement of ERC’s attorney’s
24 fees and attorney’s costs.

25 **4.6** \$562.50 payable to Karen A. Evans as reimbursement of ERC’s attorney’s fees
26 and attorney’s costs.

27 **5. MODIFICATION OF CONSENT JUDGMENT**

28 This Consent Judgment may be modified only by: (i) Written agreement and stipulation

1 of the Parties and (ii) upon entry of a modified Consent Judgment by the Court. ERC is entitled
2 to reimbursement of all reasonable attorneys' fees and costs regarding any modification
3 requested or initiated by STARWEST BOTANICALS, INC.

4 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

5 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
6 this Consent Judgment.

7 **6.2** Any Party may, by motion or application for an order to show cause filed with
8 this Court, enforce the terms and conditions contained in this Consent Judgment. The prevailing
9 party in any such motion or application may request that the Court award its reasonable
10 attorneys' fees and costs associated with such motion or application.

11 **7. APPLICATION OF CONSENT JUDGMENT**

12 This Consent Judgment shall apply to, be binding upon, and benefit the Parties and their
13 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
14 divisions, affiliates, franchisees, licensees, customers, distributors, wholesalers, retailers,
15 predecessors, successors, and assigns.

16 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

17 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
18 behalf of itself and in the public interest, and STARWEST BOTANICALS, INC., of any alleged
19 violations of Proposition 65 or its implementing regulations, and fully and finally resolves all
20 claims that have been or could have been asserted in this action against STARWEST
21 BOTANICALS, INC. for failure to provide Proposition 65 warnings for the Covered Products
22 regarding lead. ERC acting on its own behalf and in the public interest hereby releases and
23 discharges STARWEST BOTANICALS, INC. and its respective officers, directors,
24 shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers,
25 franchisees, licensees, distributors, wholesalers, retailers, and all other entities in the distribution
26 chain of any Covered Product, and the predecessors, successors and assigns of any of them
27 (collectively, "Released Parties"), from all claims for violations of Proposition 65 up through the
28 Effective Date based on exposure to lead from the Covered Products as set forth in the Notice of

1 Violation and the Complaint.

2 **8.2** ERC, on behalf of itself only, hereby releases and discharges the Released Parties
3 from any and all known and unknown past, present, and future rights, claims, causes of action,
4 suits, damages, penalties, liabilities, injunctive relief, declaratory relief, and attorneys' fees,
5 costs, and expenses arising from or related to the claims asserted, or that could have been
6 asserted, under state or federal law, regarding the presence of lead in the Covered Products or the
7 facts alleged in the Notice of Violation or the Complaint, including without limitation any and all
8 claims concerning exposure of any person to lead in the Covered Products.

9 **8.3** Compliance with the terms of this Consent Judgment shall constitute compliance
10 by the Released Parties with Proposition 65 with respect to alleged exposures to lead contained
11 in the Covered Products.

12 **8.4 Unknown Claims.** It is possible that other injuries, damages, liability, or claims
13 not now known to the Parties arising out of the facts alleged in the Notice of Violation or the
14 Complaint and relating to the Covered Products will develop or be discovered. ERC, on behalf of
15 itself only, acknowledges that this Consent Judgment is expressly intended to cover and include
16 all such injuries, damages, liability, and claims, including all rights of action therefor. ERC has
17 full knowledge of the contents of California Civil Code section 1542. ERC, on behalf of itself
18 only, acknowledges that the claims released in Sections 8.1 and 8.2 above may include unknown
19 claims, and nevertheless waives California Civil Code section 1542 as to any such unknown
20 claims. California Civil Code section 1542 reads as follows:

21 **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
22 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
23 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN**
24 **BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER**
25 **SETTLEMENT WITH THE DEBTOR.”**

26 ERC, on behalf of itself only, acknowledges and understands the significance and
27 consequences of this specific waiver of California Civil Code section 1542.

28 **8.5** It is the intention of the Parties to this release that, upon entry of this Consent

1 Judgment by the Court, this Consent Judgment shall be effective as a full and final accord and
2 satisfaction and release of every released claim up to and including the date of entry of the
3 Consent Judgment.

4 **8.6** ERC, on the one hand, and STARWEST BOTANICALS, INC., on the other
5 hand, release and waive all claims they may have against each other for any statements or actions
6 made or undertaken by them in connection with the Notice of Violation or this Action.

7 **9. CONSTRUCTION AND SEVERABILITY**

8 **9.1** The terms and conditions of this Consent Judgment have been reviewed by the
9 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to
10 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or
11 construction of this Consent Judgment, the terms and conditions shall not be construed against
12 any Party.

13 **9.2** In the event that any of the provisions of this Consent Judgment is held by a court
14 to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely
15 affected.

16 **9.3** The terms and conditions of this Consent Judgment shall be governed by and
17 construed in accordance with the laws of the State of California.

18 **9.4** Should there be an amendment to Proposition 65 or should OEHHA promulgate
19 regulations that establish a Maximum Allowable Dose Level that is more or less stringent than
20 the current 0.5 micrograms per day, this Agreement shall be deemed modified on the date the
21 amendment becomes final or the regulations become effective to incorporate that new standard
22 into Section 3.

23 **10. PROVISION OF NOTICE**

24 All notices required to be given to either Party to this Consent Judgment by the other
25 shall be in writing and sent to the following agents listed below by: (a) first-class, registered, (b)
26 certified mail, (b) overnight courier, or (c) personal delivery to the following

27 **For Environmental Research Center**
28 Chris Heptinstall, Executive Director
Environmental Research Center

1 3111 Camino Del Rio North, Suite 400
San Diego, CA 92108

2 With a copy to:

3 William F. Wraith, Esq.
Wraith Law
4 16485 Laguna Canyon Road, Suite 250
Irvine, CA 92618
5

6 **For STARWEST BOTANICALS, INC.**

7 Margaret Carew Toledo, Esq.
TOLEDO DON LLP
8 3001 Douglas Blvd., Suite 340
Roseville, CA 95661
9

10 With a copy to:

11 Van Joerger, President
Starwest Botanicals, Inc.
12 11253 Trade Center Drive
Rancho Cordova, CA 95742
13

14 **11. COURT APPROVAL**

15 **11.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
16 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
17 Consent Judgment.

18 **11.2** If the California Attorney General objects to any term in this Consent Judgment,
19 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
20 prior to the hearing on the motion.

21 **11.3** If this Consent Judgment is not approved by the Court despite the Parties' best
22 efforts, it shall be null and void and have no force or effect.

23 **12. EXECUTION AND COUNTERPARTS**

24 This Consent Judgment may be executed in counterparts, which taken together shall be
25 deemed one document. A facsimile or .pdf signature shall be construed as valid and as the
26 original signature.

27 **13. ENTIRE AGREEMENT, AUTHORIZATION**

1 **13.1** This Consent Judgment contains the sole and entire agreement and understanding
2 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,
3 negotiations, commitments and understandings related hereto. No representations, oral or
4 otherwise, express or implied, other than those contained herein have been made by any Party.
5 No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to
6 exist or to bind any Party.

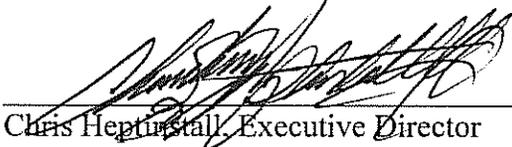
7 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
8 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly
9 provided herein, each Party shall bear its own fees and costs.

10 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

11 (a) This Consent Judgment has come before the Court upon the request of the Parties.
12 The Parties request the Court to fully review this Consent Judgment and, being fully informed
13 regarding the matters which are the subject of this action, make the requisite findings pursuant to
14 California Health and Safety Code section 25249.7(f)(4), and approve this Consent Judgment.

15 **IT IS SO STIPULATED:**

16
17 **ENVIRONMENTAL RESEARCH CENTER**

18
19 
20 _____
Chris Heptinstall, Executive Director

Dated: 9/16/2013

21
22 **STARWEST BOTANICALS, INC.**

23
24 _____ Dated: _____
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1 **13.1** This Consent Judgment contains the sole and entire agreement and understanding
2 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,
3 negotiations, commitments and understandings related hereto. No representations, oral or
4 otherwise, express or implied, other than those contained herein have been made by any Party.
5 No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to
6 exist or to bind any Party.

7 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
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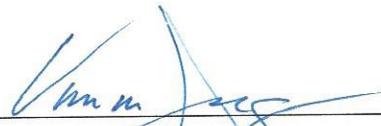
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13 regarding the matters which are the subject of this action, make the requisite findings pursuant to
14 California Health and Safety Code section 25249.7(f)(4), and approve this Consent Judgment.

15 **IT IS SO STIPULATED:**

16
17 **ENVIRONMENTAL RESEARCH CENTER**

18
19 _____ Dated: _____
20 Chris Heptinstall, Executive Director

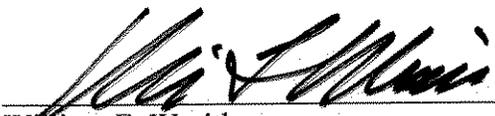
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22 **STARWEST BOTANICALS, INC.**

23
24  Dated: 9/16/13
25 *VAN DOREN, President*
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APPROVED AS TO FORM:

WRAITH LAW



William F. Wraith
Counsel for Environmental Research Center

Dated: 9/19/2013

TOLEDO DON LLP

Margaret Carew Toledo
Counsel for Starwest Botanicals, Inc.

Dated: _____

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APPROVED AS TO FORM:

WRAITH LAW

William F. Wraith
Counsel for Environmental Research Center

Dated: _____

TOLEDO DON LLP



Margaret Catew Toledo
Counsel for Starwest Botanicals, Inc.

Dated: 9-18-13

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ORDER AND JUDGMENT

Based upon the Parties' Stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____

Judge, Superior Court of the State of California

EXHIBIT “A”

WRAITH LAW

16485 LAGUNA CANYON ROAD
SUITE 250
IRVINE, CALIFORNIA 92618
Tel (949) 251-9977
Fax (949) 251-9978

January 6, 2012

NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ. (PROPOSITION 65)

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“ERC”), 5694 Mission Center Road #199, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter “the Violator”) is:

Starwest Botanicals, Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Starwest Botanicals Inc. Detox – Lead
Starwest Botanicals Inc. Blood Cleanser – Lead
Starwest Botanicals Inc. GreenPower Alkalizing Superfood – Lead

Starwest Botanicals Inc. Burdock Root - Lead
Starwest Botanicals Inc. Relaxation – Lead
Starwest Botanicals Inc. Marshmallow Root – Lead
Starwest Botanicals Inc. Liver Cleanse Lead
Starwest Botanicals Inc. Licorice Root – Lead
Starwest Botanicals Inc. Turmeric – Lead
Starwest Botanicals Inc. Fo-Ti Root – Lead
Starwest Botanicals Inc. Wheat Grass – Lead
Starwest Botanicals Inc. Valerian Root – Lead
Starwest Botanicals Inc. Gotu Kola Herb – Lead
Starwest Botanicals Inc. White Willow Bark – Lead
Starwest Botanicals Inc. Regularity – Lead
Starwest Botanicals Inc. Kidney Support - Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least January 6, 2009, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay

an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Starwest Botanicals, Inc. and its Registered Agent for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Starwest Botanicals, Inc.

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

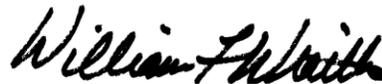
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: January 6, 2012



William F. Wraith

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On January 6, 2012, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Van Joerger, President
Starwest Botanicals, Inc.
11253 Trade Center Drive
Rancho Cordova, CA 95742

Van Joerger
(Registered Agent of Starwest Botanicals, Inc.)
2146 Meadow Vista Road
Meadow Vista, CA 95722

On January 6, 2012, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On January 6, 2012, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

Executed on January 6, 2012, in Fort Oglethorpe, Georgia.



Chris Heptinstall

Service List

District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, #202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive
Oroville, CA 95965

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
547 Market Street
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

District Attorney, Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, #1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street
Eureka, CA 95501

District Attorney, Imperial County
939 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Rm 345
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
2222 M Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Monterey County
230 Church Street, Bldg 2
Salinas, CA 93901

District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959

District Attorney, Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

January 6, 2012

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District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, Riverside County
4075 Main Street, 1st Floor
Riverside, CA 92501

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 9581

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

District Attorney, San Diego County
330 West Broadway, Room 1300
San Diego, CA 92101

District Attorney, San Francisco County
850 Bryant Street, Room 325
San Francisco, CA 94103

District Attorney, San Joaquin County
Post Office Box 990
Stockton, CA 95201

District Attorney, San Luis Obispo County
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110

District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060

District Attorney, Shasta County
1525 Court Street, Third Floor
Redding, CA 96001-1632

District Attorney, Sierra County
PO Box 457
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Sonoma County
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95353

District Attorney, Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tulare County
221 S. Mooney Avenue, Room 224
Visalia, CA 93291

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Ventura County
800 South Victoria Avenue
Ventura, CA 93009

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

District Attorney, Yuba County
215 Fifth Street
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm 800
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
1 Drive Carlton B Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113